DR. YELAMANCHILI SIVAJI : Mr. Vice-Chairman, Sir, the only thing that I would like the Minister to ensure is that the funds do not find their way from the Corporation which has been created to scam and to other securities as was done earlier.

Another aspect is with regard to the PL ratio. The proposed grid should ensure enhancement of the PL ratio and reduction of losses in transmission. I would like the Minister to ensure this also.

THE VICE-CHAIRMAN (SYED SIBTEY RAZI) : Mr. Salveji, would you like to react ?

SHRI N. K. P. SALVE : Sir, I have already answered this question.

Sir, I beg to move :

That the Bill be passed.

The question was put and the motion was adopted.

I. STATUTORY RESOLUTION SEEKING DISAPPROVAL OF THE ESSENTIAL COMMODITIES (SPECIAL PROVISIONS) AMENDMENT ORDINANCE, 1993.

II. THE ESSENTIAL COMMODITIES (SPECIAL PROVISIONS) AMENDMENT BILL, 1993.

DR. JINENDRA KUMAR JAIN (Madhya Pradesh) : Mr. Vice-Chairman, Sir, I move the following Resolution :—

> "That this House disapproves of the Essential Commodities (Special Provisions) Amendment Ordinance, 1993 (No. 1 of 1993) promulgated by the President on the 2nd January, 1993."

Sir, there are reasons for me to move this Resolution of disapproval.

THE VICE-CHAIRMAN (SYED SIBTEY RAZI) : Yes. Please maintain order in the House (*Interruptions*).

DR. JINENDRA KUMAR JAIN : Sir, if you can restore order in the House, I can speak.

THE VICE-CHAIRMAN (SYED SIBTEY RAZI) : It is in the process of being restored. All of you, please ensure order in the House.

DR. JINENDRA KUMAR JAIN : Sir, as you know, we are having as many as 24 Ordinances. It has become a habit of this Government to bypass the authority of this House. (*Interruptions*).

THE VICE-CHAIRMAN (SYED SIBTEY RAZI) : Please restore order in the House.

DR. JINENDRA KUMAR JAIN : Sir, even the Ministers are standing and talking. Is there any decorum in the House ?

THE VICE-CHAIRMAN (SYED SIBTEY RAZI) : Please speak.

DR. JINENDRA KUMAR JAIN : I will sit down till you restore order.

THE VICE-CHAIRMAN (SYED SIBTEY RAZI) : Please speak. Do not sit down. I am listening to you. The Chair is listening to you.

DR. JINENDRA KUMAR JAIN : You are listening to me. But the ruling party is not interested. (*Interruptions*). What is going on there ?

SHRI VIREN J. SHAH (Maharashtra) : They are talking with their backs to the Chair. What kind of an impression are they creating ?

THE VICE-CHAIRMAN (SYED SIBTEY RAZI) : Please maintain order in the House. Dr. Jain, please proceed.

DR. JINENDRA KUMAR JAIN : Thank you. Sir.

The point I was trying to make is this. This country is wedded to democratic polity. And, there has been a tradition to enact laws here in this House. An ordinance can be issued, but only in unusual circumstances. On earlier occasions, I had quoted, from the proceedings of the Constituent Assembly, Dr. Bhim Rao Ambedkar. He has explained under what kind of circumstances we must bring an ordinance. I ame sorry to point out that bringing an ordinance has become a routine habit for this Government and we will

be facing as many as 24 Ordinances in this Session. I am opposed to this politics of Ordinance Raj.

Sir, this Bill, in a sense, proposes to regulate the trading activity. (*Interruptions*).

THE VICE-CHAIRMAN (SYED SIBTEY RAZI) : Yes. Please proceed.

DR. JINENDRA KUMAR JAIN : It is very unfortunate that the Minister for Parliamentary Affairs is not letting a Member speak. I am very sorry.

THE VICE-CHAIRMAN (SYED SIBTEY RAZI) : Please go on now.

SHRI V. NARAYANASAMY (Pondicherry) : We are taking down each and every point.

DR. JINENDRA KUMAR JAIN : This country has various categories of traders. We have big traders, traders who trade internationally. We have small traders. There is a lot of self-employment in the industry or trading activity. I wish to remind you about the last Session. This Government had brought a legislation which we had passed. It was for regulation of international trade. The name of the Chief Controller of Imports and Exports had been changed, under that law, to be the Director of Foreign Trade. The Statement of Objects and Reasons given by this Government had stated that they did not want to treat the traders of India as criminals. A reason given therein was that we had taken trading activity off the criminal jurisdiction and we had converted it to be under the civil jurisdiction. The entire House had welcomed this direction of economic reforms and had unanimously supported that enactment by the Government. So, when this Government wants to deregulate, does it mean that it only wans to help the big fish, the big traders, the international giants and not the small, petty shopkeepers, not those people who are trying to maintain the supply line in small villages, small hamlets, rural areas, tribal areas, small 'mandis' ? This is what is happening. You have two standards. When you want to deal with the international traders, rich people, in this country, you say you want to respect them.

Sir, is it the intention of the Bill ? I mean what Jagesh Desai says. (*Interruptions*). Do you want to penalise them in this manner ? (*Interruptions*).. This cannot be the spirit of this House. I want to oppose the essence of the Bill. The policies of liberalisation, decontrol, delicensing, permitting free competition, free trade, all these slogans are the slogans of this Government. I would like to know what has happened to those slogans. You were trying to regulate the lives and activities of small shopkeepers by this Act. Are you trying to make them scapegoats ? Do you want to continue with that mechanism, those laws and those procedures, which have been responsible for harassing the small shopkeepers and which have bred corruption throughout ? Sir, you are aware that the Essential Commodities Act was amended earlier in 1981 and certain provisions were made and it had the tenure of ten years. Now, through this Bill, you are extending the same Act by another five years. In the light of the experience of this Act for ten years, has this Government learnt nothing ? Have we learnt nothing ? Do we want to perpetuate corruption and harassment ? What have you done ? You have made a very small amendment which does not provide any relief. There are stringent provisions of summary trial, special courts, minimum mandatory imprisonment making offences non-bailable in this Act. These provisions are quite inconsistent with the process of general law in respect of other offences like the Prevention of Corruption Act, where civil servants are involved. How can you discriminate against the citizens ? Somebody is a big trader but he is outside the purview of criminal jurisprudence. Somebody is a government servant and there is the Anti-Corruption Act. But those laws are not stringent. But small traders, who are trying to earn their livelihood, are going to be punished. Do you want to discriminate against the weaker sections of the Indian society ? You claim that you want to help the weaker sections of the society. But you are hitting the weaker sections of the trading community. (*Interruptions*).

SHRI V. NARAYANASAMY : Do traders and hoarders constitute the weaker section ? (*Interruptions*).

DR. JINENDRA KUMAR JAIN : I am sure, these hon. Members, who are trying to

interrupt this weak person here, will get their chance to speak. ..(*Interruptions*)..

SHRI V. NARAYANASAMY : You are very strong. (*Interruptions*)

SHRI H. HANUMANTHAPPA (Karnataka) : So, you are the weaker !

DR. JINENDRA KUMAR JAIN : We have gained a lot of experience from this Act. In respect of minor lapses like alteration in price list or stock checking, there is a minimum sentence of imprisonment and the offences are non-bailable and this can be done in summary trials. I think this whole Ordinance is absolutely disproportionate to the laws of natural justice. It is not done in a civilised society. I come from a rural background. My father was a small traders in a rural place and I have seen with my own eyes how ...((*Interruptions*)

THE VICE-CHAIRMAN (SYED SIBTEY RAZI) : Don't disturb him. Try to finish. (*Interruptions*) I have requested him not to interrupt you. You also try to be a little brief.

DR. JINENDRA KUMAR JAIN : If you want, I will stop speaking.

THE VICE-CHAIRMAN (SYED SIBTEY RAZI) : No, no. I am not saying that you should stop speaking. I am requesting you to cooperate with the Chair. Why are you becoming so sensitive ?

DR. JINENDRA KUMAR JAIN : I am trying to raise a very serious matter which is degenerating the whole climate in this country and some people are trying to laugh at it. It is not my individual thing. I am trying to say that the House should be benefited out of my own experience. I saw how people were subjected to harassment by the corrupt officials, by the police. And I am not in favour of saving the hoarders or the big people. If they, do something wrong, please take action against them. There are enough provision. Now there have been several meetings held over here. It is not a partisan issue. All the trading organisations in the country, all the trade associations all over the country, have made representations to the Government and all of them are repeatedly assured that this draconian law would not be extended. I fail to understand what happened to those assurances which the leaders of this very Government were giving to all the trade associations and organisations that they would be treated reasonably, the way other citizens are treated. All those democratic means of expression, all those delegations, all those rallies, dharnas, all those expressions, and democratic expressions of the people of this country were suddenly negated when the Government came out with an ordinance. It came out with an ordinance before the last Session. I know—because I was also one of those who wrote to the Prime Minister—the people cutting across party lines have got an idea as to how this Act has been serving the corrupt and greedy people working in the Government sector and how the ordinary citizens have been harassed. They all know about it and there is a general unanimity that such draconian laws should not be a part of a civilised society, especially at a time when you are talking of liberalisation, decontrols, freedom, giving liberation to the members of the trading community. At this time, Sir, coming out with this ordinance is a total negation of our economic reforms. I make a fervent plea to the hon. Minister to reconsider his decision and withdraw this. While I invite the Members of this House to participate in the debate, I request them to be honest to those whom they represent in this House because all of you must have been contacting the people during the last 11 or 12 years that this Act has been in operation and it is in the personal knowledge of every one of you how this Act has been misused in the past. I request the hon. Members of this House to support my motion of disapproval and persuade the hon. Minister to withdraw this Bill and let this country live in freedom. Thank you.

THE MINISTER OF STATE IN THE MINISTRY OF CIVIL SUPPLIES, CONSUMER AFFAIRS AND PUBLIC DISTRIBUTION WITH ADDITIONAL CHARGE OF THE MINISTER OF STATE IN THE MINISTRY OF COMMERCE (SHRI KAMALUDDIN AHMED) : Sir, Dr. Jain is a very good speaker; there is no doubt about that and in spite of being one of the most urbane Members of this House, it is noteworthy to see that he comes from a rural background. It is very pleasing that way. For all that he has said about the promulgation of the ordinances, I would

only remind him to refresh his memory that during the last Session also we had come with the Bill. The Bill was moved in the House but the House could not take up the Bill and both the Houses were adjourned without considering this Bill and meanwhile with the lapse of time we had to extend it, and another ordinance had to be brought and that ordinance is placed before this Hon'ble House to convert it into an Act. Now the main contention or the main objection of hon. Dr. Jain is that this Act is being misused by the Government machinery; they are harassing the poor traders. I only wish to make a very ardent appeal that the supply of food—other things may not be that important—is the most important thing in the country and especially when our food production is just enough to meet our requirements. If the food management is somehow put in a wrong track then the Consequences will be very serious and that is why the Government has been compelled to see that this supply is made without any difficulty or hindrance and it is absolutely necessary. Another thing which I want to submit is that though the Parliament passes the Bill the administration of the Essential Commodities Act is the responsibility of the State Governments. Now before the term, this particular provision with regard to five years, was coming to a close, we consulted with the State Governments. We asked the State Governments as to how they had been able to administer this Act and what their opinion is about the extension of this Act. For the information of hon. Dr. Jain I would submit that barring two or three States all other States have requested the Central Government to extend the Act.

SHRI V. NARAYANASAMY : Which are those States ? Let the Member know.

SHRI KAMALUDDIN AHMED : I can give that information. What you are eager to know is about the States of U.P., Madhya Pradesh, Haryana and Rajasthan. All the four States have requested for the extension of the Act along with other States. The problem is that Dr. Jain says that there should not be any summary trial. My submission is that the ends of justice will be met only if summary trial is resorted to in this country because when the cases go through the normal regular way governed by the Criminal Procedure Code a number of things come up, the duration of the trial, the people coming to the court, the case being adjourned for months together, etc. The ends of justice would not have been met if we had not resorted to this summary trial where the procedure had been very much abridged, in the sense that the person is given an opportunity to give his version and then the special court which is particularly constituted for this purpose gives an immediate or speedy judgment. The other thing which hon. Dr. Jain has said is that this Act is aimed at small traders. My only submission, as I submitted earlier, is that as far as the management of food supply is concerned the Central Government is only to ensure the responsibility of the Central Government is only to ensure the supply. The Central Government have to have all the legislations. I may recall for the information of the hon. Member that the era of control orders or the control over the management of food supply and other essential commodities was started after the Bengal famine.

The old-age people know how horrible that Bengal famine was and how many people had lost their lives and why that famine had occurred there. That famine was mainly because of hoarding and black-marketing of the essential commodties. After that the then Government, the British Government started bringing all the control orders and that took....

SHRI VIREN J. SHAH : It was during Suhrawardy's time....

THE MINISTER OF CIVIL SUPPLIES, CONSUMER AFFAIRS AND PUBLIC DISTRIBUTION (SHRI A. K. ANTONY): At that time these things started. Then after passing through some experiences the Act was brought in 1955 and that Act is there. This is mainly to see that the unscrupulous and corrupt traders do not resort to all sorts of things, thereby making the society suffer. With these submissions, I would rather request Dr. Jain to withdraw his motion.

SHRI SUNGH PRIYA GAUTAM (Uttar Pradesh) : Did you consult him ? Did you give ...(*Interruptions*)... him an opportunity to withdraw his resolutions.

SHRI VIREN J. SHAH : Mr. Vice-Chairman, I rise to support this resolution of dis-

approval. After having listened to the Minister, why do I do that ? Any law has to be consistent with the objects and the objects must be objective and the reasons must be reasonable. Let us look at the Statement of Objects and Reasons and let us examine it regardless of party lines. But from that point of view, I am not going into the 1943 famine, etc. because much water has flown in the Ganga since then and history has changed and economic perspective has changed. The objects written here are exactly the words that were used in 1981, that is, "anti-social activities like hoarding and black-marketing and the evil of vicious inflationary prices"—I emphasise on that—"the evil of vicious inflationary prices and hence for a temporary period of five years....", not 10 years. There are various provisions. If we look at it from that angle, we should see whether these objectives have been met or not because no one can oppose it. Certainly, I would not. The needs of vulnerable sections of the society for basic goods at fair prices must be met. There cannot be two opinions about it. However, is this Act necessary ? If we look at the original Act of 1955, it had certain provisions. Then the Special Provisions Bill was brought in 1981, as I read, for five years for a temporary period. But the point is that the Government of India also took certain economic decision in 1991 and 1992-93. There is a vast difference. The condition is the same from 1981 to 1992-93. We must look at it. I personally feel there is a sea change in it. The Government has made many changes, corresponding with the changes in the global economic structure, in India's own economic structure. But in this particular Act—for whatever reasons, because it was lapsing or whatever may be the reason—what we are doing is asking everybody to continue to wear heavy woollen clothes which we wear during winter, also at the height of summer. One can say because it was right at that time, it is right now. But we don't do that. We look at it with comomn sense. Is there a scarcity ? Is there vicious inflationary price, spiral ? If it is so, as per this objective, then it would be a direct contradiction with the statements made by many Ministers in this hon. House and in the other hon. House and outside the House, including statements by the Prime Minister. I will not go further. Today itself there was a Starred Question No. 382. I think the hon. Minister also replied to it. I have got the question and the answer. He replied that the inflation is under control, the consumer price has not increased and the prices of agricultural products are on the decline. The hon. Member drew the attention of the Government in regard to inflation and said that 91 per cent of the inflation is on industrial products, non-agricultural products, including services and that only nine per cent of it is on account of price rise agricultural products. This is what we heard this morning. Our memory at least, is not that bad. And here is a Bill of this very Government which talks about the vicious inflationary spiral. I wish the hon. Finance Minister were here on roster duty and continued to sit here. He is going to deny it. Everyday he is denying it. Statements about abundant stocks of foodgrains, sugar and other things are being made. I can understand if the hon. Minister says that it is just enough for the country. But it is very different from the situation in 1981 or even 1987 when it was amended. We only request the hon. Minister to look at it in an objective manner Why is this Act undesirable ? I am told, and I would be willing to be corrected, that there are 43 different Central Acts and laws which govern one item or the other which comes under this. Originally there were only 10 items. If you read the original Act, I have got it here—foodgrains, sugar, iron and steel, cement and paper, all have been decontrolled except foodgrains. But there are 47 Central Acts. There are 12 to 18 State Acts which one way or other take care of this mischief. If this Government is on the path of reducing unnecessary laws and regulations, whether we should continue with this, is the question that we need to ask ourselves. My colleague described it as a draconian law. Why is it a draconian law ? If you carefully read it you will find that ultimately it boils down to an inspector-raj. I was glad to hear the other day an hon. Member from the Treasury Benches say that we don't want an inspector-raj. Ministers of this Government have said that we want to do away with the inspector-raj. But here it is not only inspector-raj—Sales Tax Inspector-raj, but police inspector-raj. The only amendment that is made is that a constable cannot arrest unless he has a written order from the inspector in charge of the Thana, but he will not have any difficulty in getting

such an order. The police inspector becomes the real master. What powers does he have under this Act? One, he can seize all goods. I have heard from small shopkeepers that an inspector would come, not only the inspector but even a sub-inspector would come and demand x-thousand rupees; otherwise, he would say you have 502 match boxes and not 500. So under this Act everything is confiscated. Not only the 500 match boxes but every item in his shop is confiscated. Secondly, every partner, whether active partner or non-active partner, it could be his wife or daughter, they could also be arrested and it is non-bailable. Every employee can be arrested and the arrest is non-bailable. All persons are arrested, all goods are seized and when they are non-bailable, what happens? The matter goes to Special Courts later. The magistrate would hold him in detention for 15 days and thereafter refer him to Special Courts. He may continue to be in jail. It could be he or she. Meanwhile goods are seized. They could be auctioned. There is a mandatory imprisonment of minimum three months and maximum seven years. Why are we talking only about hoarders? There are other evils in the society. The hon. Prime Minister spoke about removing corruption and he said immediate steps would be taken to at least minimise corruption. This is one law which leads to highest corruption at the police level. We have seen in this House. All Members have been appealing regardless of party considerations. We have seen the police behaviour, What it has come to. So what is the impact on the trader or the shopkeeper? The impact is that he is totally ruined by the time he comes out. He may be innocent, even then his goods have been seized. Either they will be auctioned or he will get into a difficult situation. Another thing is that this is the only law I know of where judicial authority has been replaced by the State Government. If you look at the amendment made in 1981, it says the words "judicial authority" be replaced by "State Government". And what is the State Government? It is collector or a deputy collector or a sub-divisional officer. So, inspector is the authority and the judicial part goes to the sub-divisional officer. Are we giving the due process of law? Has that been taken care of? I don't find that. So, does it benefit or befit a democratic country like India when we are moving forward now? We can go back to 1981. We can go back to 1943 famine. We can go back to the famine which took place at the time of the Mughal Emperors or anywhere. But that does not help anybody. So, this leads to corruption at a very high level. Are not the data given by the Government of India true that in 1991, the number of raids that took place was 1,58,397, the number of arrests made, 5374, prosecutions launched, 6591, and the number of convictions, despite summary trial, only 280? But goods worth Rs. 25 crores were seized and confiscated in 1991... (*Interruptions*)

SHRI JAGESH DESAI (MAHARASHTRA) : This was when Mr. Shanta Kumar was the Chief Minister

SHRI VIREN J. SHAH : Now, my only request is—I am ending Sir, by making this request—let us restore balance; balance between consumers and also traders. It is mentioned in public interest'; they are also public. The total number of people including families depending on trade and commerce is nearly 10 crores. Are they all hoarders, black-marketeers and dishonest people? We need to think about it. And I think they also need justice and fairness. So, I am making a suggestion : withdraw this Bill. Let us not stand on false prestige because we are donig something and because the administration has asked to continue this. Let us not do it. Maintain the original Act of 1955 because there is an Act, there is a law governing this and there are 43 other laws. And reduce the number of items from 66 to 5. I totally agree with the hon. Minister of State who said about foodgrains. So, I want him to include only fertiliser, life-saving drugs, foodgrains, levy sugar, petroleum and petroleum products. Keep these items only under the essential commodities. You have given the list of items which are considered to be essential commodities, like iron and steel, etc. Today you ask the Steel Authority of India Limited. They have great difficulties to sell steel. They go from door to door to sell it. How is anyone to hoard and indulge in black-

marketing? These, Mr. Vice-Chairman, are my suggestions and I sincerely submit, let us not look at it from the partisan point of view at all but from the point of view of the people of India who include the traders and shopkeepers and let us not assume that all of them are hoarders and black-marketeers as all of the police inspectors are not corrupt. But a large number are becoming so because this is a powerful tool in their hands to which there is no answer. Thank you very much.

MESSAGES FROM THE LOK SABHA

(I) The Foreign Exchange Regulation (Amendment) Bill, 1993.

(II) The Multimodal Transportation of Goods Bill, 1993.

SECRETARY-GENERAL : Sir, I have to report to the House the following messages received from the Lok Sabha signed by the Secretary-General of the Lok-Sabha :

(I)

"In accordance with the provisions of rule 96 of the Rules of Procedure and Conduct of Business in Lok Sabha, I am directed to enclose the Foreign Exchange Regulation (Amendment) Bill, 1993, as passed by Lok Sabha at its sitting held on the 23rd March, 1993."

(II)

"In accordance with the provisions of rule 120 of the Rules of Procedure and Conduct of Business in Lok Sabha, I am directed to inform you that Lok Sabha, at its sitting held on the 23rd March, 1993, agreed without any amendment to the Multimodal Transportation of Goods Bill, 1993, which was passed by Rajya Sabha at its sitting held on the 17th March, 1993.

Sir, I lay a copy of The Foreign Exchange Regulation (Amendment) Bill, 1993, on the Table.

I. STATUTORY RESOLUTION SEEKING DISAPPROVAL THE ESSENTIAL COMMODITIES (SPECIAL PROVISIONS) AMENDMENT ORDINANCE, 1993.

II. ESSENTIAL COMMODITIES (SPECIAL PROVISIONS) AMENDMENT BILL, 1993—contd.

SHRI JAGESH DESAI : Sir, I appreciate the point regarding raids that was mentioned by Mr. Viren Shah. But I would like to point out that there was a written answer to a question in the Rajya Sabha that in Himachal Pradesh 13,000 raids took place when Mr. Shanta Kumar was the Chief Minister... (*Interruptions*)

SHRI VIREN J. SHAH : If you give such a power, they will do it... (*Interruptions*).

SHRI JAGESH DESAI : Not a single gram of foodgrains... (*Interruptions*)

SHRI VIREN J. SHAH : If there was no such power, they might not have done that... (*Interruptions*) No Government should give such a power.

SHRI DAVID LEDGER (ASSAM) : Mr. Vice-Chairman, Sir, the primary intention of the Government when the Essential Commodities Act was legislated was to regulate the production, supply and prices of essential commodities, to see that essential commodities are supplied to the consumer at a reasonable price and to ensure that unscrupulous traders cannot exploit the consumer by resorting to hoarding and artificial inflation. In course of time when it was felt that the provisions of the Essential Commodities Act, 1955 were not adequate, amendments were brought in and the Essential Commodities (Special Provisions) Act, 1981 was specifically enacted, initially for a period of five years, with a view to providing more teeth to the Essential Commodities Act, 1955 and to make it more stringent. The idea, perhaps, was that if the situation improved, these stringent provisions could be withdrawn and could be done away with. As the situation